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**TITLE 326 AIR POLLUTION CONTROL BOARD**

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**FIRST NOTICE OF COMMENT PERIOD**

LSA Document #09-364

**DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING FUEL GRADE ETHANOL PRODUCTION AT DRY MILLS****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [326 IAC 8-1](#) and [326 IAC 8-5-6](#) concerning fuel grade ethanol production at dry mills. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**CITATIONS AFFECTED:** [326 IAC 8-1](#); [326 IAC 8-5-6](#).

**AUTHORITY:** [IC 13-14-8](#); [IC 13-17-3](#).

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING****Basic Purpose and Background**

To increase the clarity, predictability, and timeliness of air permits for fuel grade ethanol production, IDEM finalized a rulemaking (LSA Document #05-197) on February 20, 2007, for fuel grade ethanol production at dry mills that have no wet milling operations under new rule [326 IAC 8-5-6](#). This rulemaking created an industry-specific best available control technology (BACT) standard for new fuel grade ethanol production dry mills that replaced the otherwise required case-by-case BACT determination under [326 IAC 8-1-6](#) for new facilities with the potential to emit 25 tons or more of volatile organic compound (VOC) emissions per year. This rule applies to fuel grade ethanol production plants that were constructed or modified after April 1, 2007, that are: (1) dry mills that have no wet milling operations, (2) use fermentation, distillation, and dehydration to produce ethanol and dried distillers grain and solubles (DDGS), and (3) have combined potential VOC emissions of 22.7 megagrams (25 tons) or more per year from fermentation processes, DDGS dryer or dryers, and ethanol load-out operations.

The current rule requires that the owner or operator of a fuel grade ethanol production plant that is a dry mill install and operate at least one of the following control devices for VOC emissions from the plant:

- (1) A thermal oxidizer with an overall control efficiency of not less than 98% or resulting in a VOC concentration of not more than 10 parts per million (ppm).
- (2) A wet scrubber with an overall control efficiency of not less than 98% or resulting in a VOC concentration of not more than 20 parts per million (ppm).
- (3) An enclosed flare with an overall control efficiency of not less than 98%.

IDEM submitted a revision to the U.S. EPA for the Indiana state implementation plan (SIP) on March 30, 2007, to add [326 IAC 8-5-6](#), fuel grade ethanol production at dry mills. The final rule was approved and became effective on March 21, 2008. Since this effective date, new control technologies have been identified for fuel grade ethanol production, such as carbon adsorption, that achieve the required overall control efficiency of not less than 98%. Therefore, IDEM is proposing, in this rulemaking, to amend [326 IAC 8-5-6](#) to allow dry mills to install and operate additional types of control devices for VOC emissions, in addition to a thermal oxidizer, wet scrubber, or enclosed flare, such as carbon adsorption, as long as the control device achieves the required overall control efficiency of not less than 98% and the owner or operator of the plant verifies initial and continuing compliance with the control efficiency requirement. IDEM is also proposing to amend [326 IAC 8-1](#) to clarify the general provisions that pertain to fuel grade ethanol production.

Upon completion of the rulemaking, this rule will be submitted to the U.S. EPA for approval as a revision to the SIP.

**Alternatives To Be Considered Within the Rulemaking**

Alternative 1. Amend [326 IAC 8-5-6](#) to allow alternative control devices for VOC emissions that will achieve the required overall control efficiency of not less than 98%.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law and there is no comparable federal law. It is a "state-only" requirement.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Amend [326 IAC 8-1](#) to clarify the general provisions that pertain to fuel grade ethanol production.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not

imposed by federal law and there is no comparable federal law. It is a "state-only" requirement.

- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 3. Do not amend the rule.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

#### **Applicable Federal Law**

There is no applicable federal law.

#### **Potential Fiscal Impact**

Potential Fiscal Impact of Alternative 1. There is no fiscal impact on existing sources since they are already subject to the current industry-specific BACT standard. For new sources, the rule amendments should not impose additional costs but allow sources more options in selecting appropriate control devices.

Potential Fiscal Impact of Alternative 2. This alternative will clarify the general provisions that pertain to fuel grade ethanol production and will provide consistency in the rules. Therefore, IDEM anticipates no fiscal impact from the implementation of the rule amendments.

Potential Fiscal Impact of Alternative 3. This alternative will have no fiscal impact.

#### **Small Business Assistance Information**

IDEM established a compliance and technical assistance (CTAP) program under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

<http://www.in.gov/idem/4108.htm>

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Alison Surface

IDEM Compliance and Technical Assistance Program - OPPTA

MC 60-04 IGCS W041

100 North Senate Avenue

Indianapolis, IN 46204-2251

(317) 232-8172 or (800) 988-7901

[ctap@idem.in.gov](mailto:ctap@idem.in.gov)

The Small Business Assistance Program Ombudsman is:

Brad Baughn

IDEM Small Business Assistance Program Ombudsman

MC 50-01 IGCN 1307

100 North Senate Avenue

Indianapolis, IN 46204-2251

(317) 234-3386

[bbaughn@idem.in.gov](mailto:bbaughn@idem.in.gov)

#### **Public Participation and Workgroup Information**

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Manda Clevenger, Rules Development Branch, Office of Legal Counsel at (317) 232-8229 or (800) 451-6027 (in Indiana).

#### **STATUTORY AND REGULATORY REQUIREMENTS**

[IC 13-14-8-4](#) requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

#### **REQUEST FOR PUBLIC COMMENTS**

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#09-364 (APCB) Ethanol Production Control Options  
Manda Clevenger Mail Code 61-49  
c/o Administrative Assistant  
Rules Development Branch  
Office of Legal Counsel  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Indianapolis, Indiana 46204

Hand delivered comments will be accepted by the IDEM receptionist on duty at the thirteenth floor east reception desk, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-5517, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Development Branch at (317) 233-8903.

#### **COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed, or hand delivered by July 6, 2009.

Additional information regarding this action may be obtained from Manda Clevenger, Rules Development Branch, Office of Legal Counsel, (317) 232-8229 or (800) 451-6027 (in Indiana).

Nancy King, Chief  
Rules Development Branch  
Office of Legal Counsel

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